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March 22, 2002

**EMAIL AND REGULAR MAIL**

Mr. Sam McClerren  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

Re: Part 731; Docket No. 01-0539

Dear Sam:

On behalf of Verizon North Inc. and Verizon South Inc. (collectively "Verizon"), I am submitting these comments addressing Staff's Draft 2A of the proposed Part 731 rule ("Draft 2A"). Verizon appreciates the opportunity to comment on Staff's proposal and will be prepared to discuss these issues at the next workshop.

Prior to addressing specific issues in Draft 2A, it is imperative to reiterate certain facts, of which there is no dispute. First, Verizon is providing quality wholesale service to competitive local exchange carriers ("CLECs"). There has been no claim during the workshop process regarding Verizon's performance to the contrary. Second, Verizon has an existing Carrier-to-Carrier Performance Plan ("Performance Plan") which encompasses Operation Support Systems ("OSS"), provisioning, maintenance and repair, billing and collection. The Commission has stated that Verizon's Performance Plan is reasonable and appropriate in a recent letter to the Federal Communications Commission ("FCC"). The Performance Plan properly balances the interests of end-use customers, CLECs and Verizon. Third, for reasons wholly outside of Verizon's control, Verizon's service territory is not experiencing the level of competitive entry that is taking place in Ameritech-Illinois' service territory. Fourth, and finally, it is no secret that the General Assembly included Section 13-712(g) in response to claims involving one particular local exchange carrier ("LEC"). Verizon suggests that the proposed Part 731 rule account for these facts.

Verizon respectfully notes that this is the first time, not the last time, the Commission is promulgating the rules for wholesale services related to the provision of basic local exchange service. The Commission recently has examined the Performance Plan of Verizon and this plan should remain intact under the rule. The Commission should be hesitant to impose a host of untried rules on carriers to resolve a problem that simply does not exist. Accordingly, the rule only should be tailored to address known issues now, particularly in light of the Commission's ongoing obligation revisit the rule in the future pursuant to Section 13-512 of the Public Utilities Act.

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The Commission should also be mindful of the fact that a rulemaking is not a proper vehicle for establishing detailed performance standards because of the likelihood that they will quickly become obsolete. Furthermore, it will be difficult to fashion standards that are applicable to the unique circumstances associated with each carrier.

The following discusses in detail Verizon's comments concerning the particular proposals set forth in Draft 2A.

## **I. Obligations of Level 1 Carriers**

Ameritech-Illinois has almost ten times the number of access lines as Verizon and is experiencing a much higher level of competitive entry than Verizon. Indeed, it would be an overstatement to characterize the level of competition in Verizon's service territory as "modest". Yet, Draft 2A proposes to treat Verizon in an identical manner to Ameritech-Illinois. It is Verizon's position that the facts do not warrant identical regulatory treatment.

Verizon proposes that a Level 1 carrier remain one that has a "pre-existing plan." However, an additional distinction between Level 1 carriers should be drawn based upon a criteria such as access lines, percentage of lines provisioned by a CLEC, or some other attribute. For example, a carrier with less than 2,000,000 access lines and a pre-existing plan would use the plan to provide the standards of service and remedy plan. While Verizon is not putting forth a specific proposal at this time, it is clear that there would be no need to go through all of the regulatory processes contemplated in Draft 2A. Instead, Verizon proposes that for such a carrier, the pre-existing plan on file with the Commission would meet the rule. If the Commission, a CLEC, or an eligible carrier sought to modify the pre-existing plan, it could be done on the Commission's own motion, or upon the petition of a CLEC, the eligible carrier, or some other appropriate party.

The facts support this proposal. There simply is no need to embark upon the procedural process envisioned in Draft 2A. Verizon supports maintaining its obligations under its Performance Plan: a plan the Commission found reasonable less than a year ago.

Regardless of the need to distinguish between Level 1 carriers, there also is a need to revise the contemplated process for reviewing wholesale service quality plans. Verizon first notes that its Performance Plan, which the Commission has stated is reasonable and appropriate, includes a review process. As such, an additional review requirement is unnecessary. Verizon further submits that the Commission has the ability to investigate a plan at any time, and parties can seek to have the Commission review a wholesale service quality plan through a petition or complaint. Accordingly, the requirement to file a plan every two years, in accordance with a detailed list of filing requirements, is unnecessary. As such, Verizon proposes that this requirement be removed from the rule at this time.

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## **II. Definitions**

There are several definitions that require amendment. First, the definition of “emergency situation” should reflect the Commission’s decision based upon the evidentiary record set forth in the Part 732 proceeding currently on rehearing. (Docket No. 01-0485). Given the current schedule in this proceeding, and the expedited nature of the Part 732 docket, it is apparent that the Commission will resolve the definition of “emergency situation” in that proceeding before the end of May 2002. Accordingly, Verizon suggests that the definition of “emergency situation” remain blank until entry of the Part 732 Order on Rehearing.

As Verizon has repeatedly stated in this proceeding, Section 13-712(g) is a subsection of Section 13-712 which is entitled “Basic local exchange service quality; customer credits.” Notwithstanding this section’s explicit title, subsections (a) through (f) specifically addresses the provision of local exchange service. Accordingly, Verizon continues to propose that the definitions of “Carrier to Carrier Wholesale Service Quality” and “Wholesale Services” be amended to indicate that this rule only applies to local exchange service. Verizon notes that the plain language of Section 13-712 indicates that service to wireless carriers was simply not contemplated by the General Assembly in enacting this section and, therefore, the rules will cause confusion if they are not clarified.

## **III. Waiver**

Verizon proposes that a Part 731 rule should include a section to allow for waiver of any particular section of the rule. This proposal is consistent with almost every other Commission rule. This is an especially useful tool in light of the fact that it will difficult, if not impossible, to develop a rule that conforms with each carrier’s unique situation. Moreover, such a waiver section would allow the Commission to apply the rule only where it is needed, thus eliminating unnecessary costs for both the carriers and the Commission. Accordingly, the following language should be added to the rule:

### **Section 731.150 Waiver**

A Carrier subject to this rule may petition the Commission for waiver of any requirement of this rule. A petition for waiver shall be filed pursuant to 83 Ill. Adm. Code 200 and shall set forth the specific reasons in support of the request.

## **IV. Special Access**

Verizon’s opposition to including “special access” in this rule has been voiced several times in this proceeding. Verizon continues to object to any inclusion of the term “special

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access” in this rule. Verizon will not repeat its argument here, other than to state the term’s inclusion in the rule is entirely improper.

Thank you, again, for the opportunity to comment on Draft 2A of the proposed Part 731 rule. Please call with any questions. I look forward to working with you at the next workshop.

Sincerely,

John E. Rooney

JER:hpj